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of Laws, or, as he prefers to call it, Private International Law, rather from the point of view of Laurent and von Bar than from the point of view of Dicey and Story and of the English and American courts. In short, for an English or American lawyer, the Conflict of Laws must be regarded as a branch of the common law, to be determined by the practice of the common-law courts, like any other branch of the common law; and the naturally different views of courts and jurisdictions trained in continental law can hardly be received as illuminating. Such portions of the work, therefore, as involve an attempt to discuss the present state of the Conflict of Laws in England and America is not altogether to be regarded as authoritative.

But while the American and English lawyer will hardly find in this work an authoritative treatise on the Conflict of Laws, that fact does not in the least diminish its extreme usefulness as a book of reference for foreign law, whether that foreign law be the law of Marriage or other personal status, or the doctrines of Private International Law, as applied in foreign countries. In this, the principal subject of the work, Burge's treatise has no rival, and must fill a most important place in the library of every lawyer whose practice extends beyond the narrow limits of his own country. And in this respect the work has been admirably edited and modernized. It is full of references to the decisions of continental courts, mediæval as well as modern, and to the writers of treatises, modern as well as mediæval. The inaccuracy and inadequacy of its treatment of American authorities has been pointed out, but it is hardly a defect to an American lawyer, who will go to the book for information on foreign law; and he will certainly find what he needs.

J. H. B.

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INTRODUCTION TO THE SCIENCE OF LAW. Systematic Survey of the Law and Principles of Legal Study. By Karl Gareis. Translated from the third, revised edition of the German. By Albert Kocourek. With an Introduction by Roscoe Pound. Boston: The Boston Book Company. 1911. pp. xxix, 375.

This is the second of the Jurisprudence and Philosophy of the Law Series published by the Boston Book Company, the first being Korkunov's "Theory of Law" translated by Judge Hastings. A recent review of the latter translation opens with the following noteworthy statement: "With the exception of Pulszky's Theory of Law and Civil Society, this is the only modern account of Continental juristic thought accessible to the reader of English."<sup>1</sup> If, then, Gareis' third edition is of value to the Anglo-American reader, and if the translation is well done, Professor Kocourek has rendered our lawyers a service of special interest.

The work in the original, which belongs to the class of Arndts', Kohler's, and Merkel's *Encyklopädie*, is intended to be read as a text-book on German Law in connection with lectures in the introductory course on law in a German university. It is a juristic survey and aims at a systematic review of the law as a whole. After a brief introduction pointing out the object of a survey of the law, the author in the first part deals at length with the nature of law and of the sources of law. The bulk of the book, however, consists of a classification of (A) Civil or Private Law and (B) Public Law. Such a treatment might easily fail for want of concreteness, but in common with other recent German texts there is no want of practical application, for the writer never wanders far from the German Civil Code. This has the weakness of eliminating the comparative side of continental law, but to those of us who are willing to read thoughtfully and make our comparisons for ourselves, it is difficult to find a

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<sup>1</sup> 10 Col. L. Rev. 585.

more compact, suggestive, and accurate exposition of a great legal system of modern times. Of clear condensed expression we have many examples, namely, in the sections and paragraphs entitled, the historical evolution of the German Civil Law, p. 114, three kinds of collision of conflicting legal standards, p. 71, the rights of personality, a suggestive phrase, p. 125. The style is direct and sure in tone with a straightforwardness which leaves no doubt in the reader's mind of the author's own views on the points made. The suggestive character of the work is found in a number of well-turned definitions, such as: "Legislation is a declaration of the dominant social organism by which a legal standard is created or imposed," p. 80, and in the notes which direct the scholar to valuable fields of investigation. In fact any investigator of a point of German law may well turn first to Gareis for a starting point without fear of being led into unprofitable labors. The references to sections of the German Code abound, and a partial test by verifying a number of them at random reveals no inaccuracy.

There are three ways of approaching the law, or three schools of jurists, the analytical, the historical, and the ethical or philosophical. The analytical jurist thinks of law as the product of a determinate human will. The historical and philosophical schools agree that law is found not made, differing with respect to what is found; the historical jurist finding law in a rule of action founded on the experience of mankind in the past, the philosophical finding law in those rules which fit ideally the needs of society. In England the works on jurisprudence are primarily analytical; while in Germany emphasis is laid more on the historical and philosophical side, methods which Gareis chiefly employs, and, indeed, has further developed in this edition. Yet in many places in the book there is a distinctly Austinian tinge, such as on p. 75: "the authority of the state, however, lends to all of these rules the character of legal rules;" and again on pp. 29, 37 and 74. He ends his discussion of customary law by saying: "The authority of customary law as a legal standard is due, however, only to the dominant social organism," p. 79. And again: "The claims of justice are not law in themselves, even though the legal sentiment of a whole people would annex them and seek to discover in them the ideal of the development of law," p. 48. "Justice or equity of itself lacks external authority," p. 48. In fact the book shows many indications of the modern tendency of the Germans to throw off the burden under which they have labored for years of "*Nicht positivisches recht*." An inability to appreciate Bentham and Austin, a notion that there may be doctrines in the community not enforced by the courts which may yet be law, have hampered German jurists in clear thinking and in arrival at sound results. These happily have not been the inclination of recent writers,<sup>2</sup> and Gareis promotes this new turn of thought.

The work of the translator seems well done. The English is idiomatic, yet the translation faithful. There is a valuable introduction by Professor Roscoe Pound stating the relation of the book to German and English legal thought.

J. W.

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COMMENTARIES ON THE LAW OF MUNICIPAL CORPORATIONS. By John F. Dillon. Fifth edition. In five volumes. Boston: Little, Brown and Company. 1911. pp. lxi, 778; xiii, 774; xii, 755; xiii, 755; iv, 738.

In this Fifth Edition of his Municipal Corporations Judge Dillon completes the structure of this monumental work. He need have no fear that anyone will charge him with an author's vanity by reason of the justifiable satisfaction he feels in its wonderful success. He lets us know in his delightful preface how the original book was written; and we can well understand why it was that

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<sup>2</sup> 25 HARV. L. REV. 144, 145.